

REMARKS

Applicant requests reconsideration of the above-mentioned application in view of the foregoing amendments and following discussion.

1. Affirmation of the provisional election to prosecute the invention of Group 1, claims 13 – 25, inclusive is hereby asserted, accordingly claims 104 – 114, inclusive have been withdrawn.

2. Claim 25 has been objected to due to informalities. Claim 25 has been amended according to the examiner's suggestion. Applicant requests that the objection to claim 25 due to informalities be withdrawn.

3. Claims 14 – 17 and 25 have been rejected under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 14 – 17 have been cancelled. Claim 25 has been amended to more particularly point out the subject matter. The purpose of the amendments to claim 25 is not to narrow the scope of these claim elements for the purpose of obtaining an issued patent, and the applicant specifically and affirmatively alleges that it has not done so, but rather to clarify a technical error of grammar. Applicant requests that the rejection of claim 25 under 35 U.S.C. 112 be withdrawn.

4. Claims 13, 16, and 17 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,116,675 (Nash-Morgan). Claims 13, 16, and 17 have been cancelled.

5. Claims 13 and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,052,381 (Gilbert et al.). Claims 13 and 18 have been cancelled.

6. Claims 14 and 15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Nash-Morgan in view of U.S. Patent No. 5,820,578 (Johansen). Claims 14 and 15 have been cancelled.

7. Claims 19 – 25, inclusive have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,230,445 (Teed et al.) in view of U.S. Patent No. 5,534,010 (Peterson). The Applicant respectfully disagrees with this rejection. Applicant has thoroughly considered the cited references and asserts that neither reference discloses, claims, or suggests the present invention. With regard to the Teed reference in particular, the examiner has asserted that the reference discloses a bandage structure (3) having a first end and a second end, a first material (6) coupled to the first end and a second material coupled to the second end. Applicant disagrees with this characterization. Specifically, applicant asserts that the Teed reference discloses and claims

a surgical strip comprised of longitudinal aligned sections 3 composed of fabric having adhesive coating 4 thereon (see lines 35, 36), not a positioning mechanism having a bandage structure, a first and second elastic material, and first and second anchoring structures each respectively coupled to the first and second elastic material, as recited by the present claim. Additionally, sections 3 of the Teed reference are designed to be pressed down upon the surface of the epidermis at one side of a wound, (see lines 64, 65). The sections 3 of the Teed reference are entirely unlike a bandage structure, which is to be placed over a wound. Further, a cut or wound to be treated by the Teed device is meant to be exposed to the air, (see lines 83, 84), with a loose bandage placed over the wound if necessary. (See lines 85, 86). Additionally, the "bandage structure" noted by the examiner in Figure 1 is actually an aligned section 3, as discussed, which is additionally intended to be cut transversely to complete the application of the device, leaving a free half ready for application to another wound. (See lines 71 - 74). The arrangement of the Teed device is entirely unlike the present claim which includes the features of a positioning mechanism having a bandage structure, a first and second elastic material, and a first and second anchoring structure. Further, the Peterson reference lacks the unique arrangement of the present claim, insofar as it does not suggest or disclose a mechanism having a bandage structure, a first and second elastic material, and first and second anchoring structures each respectively coupled to the first and second elastic material, as recited by the present claim. Accordingly, it is respectfully asserted that claim 19 presents patentable material and avoids the cited art. Claims 20 - 25 depend from independent claim 19, believed allowable, and as such are also believed to be in condition for allowance. Withdrawal of the rejection of claims 19 - 25, inclusive under 35 U.S.C. 103 (a) is requested.

8. Applicant has amended the present application to include newly presented claims 115 - 117, supported in the specification. Newly presented claims 115 - 117 are believed to present patentable material and overcome the cited art. Specifically, new independent claim 115 includes the features of a first end piece, a second end piece, at least one elastic material coupled to the first end piece and the second end piece, wherein at least one of the end pieces is a lifting piece having a plurality of U-shaped slits thereon. This combination of features is neither claimed nor shown in the cited references. Further, applicant disagrees with the examiner's assertion that changing the shape of the slits in the end pieces of Johansen requires only routine skill in the art. Examiner's attention is directed to the specification of the present application, the paragraph beginning on line 7 of page 6, in which the function and characteristic of the horseshoe (e.g. U-shaped) slits or cuts, is

described. The slits of the present claim serve to generate a uniform lifting force while at the same time applying a shearing force to the adhesive. By decreasing the peel force on the adhesive, the stability if the bond between the adhesive and the skin is increased. In contrast, the Johansen reference discloses slits for ensuring independent flexion and fit of bandage tabs. The Johansen does not claim or disclose an epidermal positioning mechanism having a lifting end piece, neither does it contemplate any sort of lifting structure. The lifting end piece of the present claim is specifically configured to include U-shaped slits to thereby optimize the lifting function. Accordingly, applicant asserts that newly presented claims 115 - 117 present patentable material. Allowance is respectfully requested.

9. The applicant has reviewed the remaining cited art, namely Freeman and Otsu et al., and agrees with the Examiner that they are of interest but not directly applicable to the present claim.

Applicant respectfully requests that the objections and rejections be removed, that original claims 19 - 24, inclusive, amended claim 25, and newly added claims 115 - 117, inclusive, be passed to allowance.

Respectfully Submitted,

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